

Notice of Allowability

Application No.

10/526,837

Examiner

Melenie McCormick

Applicant(s)

MILJKOVIC ET AL.

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication submitted 09 July 2007.
2. ☒ The allowed claim(s) is/are 1,4-7,10-14,16 and 17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

The response with amendments filed on 09 July 2007 has been received and entered.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Martin Fressenmair on September 13, 2007

IN THE CLAIMS:

Claim 1 has been rewritten as:

Claim 1. A method for activating adenosine 5'-monophosphate-activated protein kinase (AMPK) in a patient in need thereof, wherein the method comprises malting barley, grinding the malted barley, and extracting the malted barley with a solvent to obtain a malted barley extract; fractionating the malted barley extract by ion exchange chromatography to form fractions thereof; pooling the desired fractions and optionally removing protein from the pooled fractions by molecular sieving chromatography to

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prepare a low-molecular weight composition from a formed fraction; administering to said patient the low molecular weight composition in therapeutically effective amount that activates AMPK.

Claim 8 has been cancelled.

Claim 9 has been cancelled.

Claim 15 has been cancelled.

Claim 16 has been rewritten as:

Claim 16. A process for purifying from an extract of ground barley malt a composition comprising an agent that activates AMPK, wherein the process comprises: (1) fractionating the extract of ground barley malt by ion exchange chromatography into protein fractions; (2) collecting one or more protein fractions; (3) removing a thaumatin-like protein from the one or more protein fractions by molecular sieving chromatography; and (4) pooling the fractions if more than one fraction is collected to result in a low-molecular weight composition that has an absorption maximum at about 260nm.

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In claim 17 at line 1, the phrase "compound at" has been omitted and replaced with ---agent that---

Conclusion

Claims 1, 4-7, 10-14, and 16-17 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melenie McCormick whose telephone number is (571) 272-8037. The examiner can normally be reached on M-F 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


CHRISTOPHER R. TATE
PRIMARY EXAMINER

Melenie McCormick
Examiner
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